

**THE VIRGINIA BOARD FOR
ASBESTOS, LEAD AND HOME INSPECTORS**

MEETING MINUTES

The Virginia Board for Asbestos, Lead and Home Inspectors met on August 13, 2008 in Board Room 1 at the offices of the Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia.

The following members of the Board were present:

Frederick Heppner, Chairperson
Keith F. Cronan
Vicki Harlow
Bowen Hyatt
Thomas Joel Loving
Dr. Clayton S. Sinyai
Howard D. Varner

Board members Dolores Daniels and John Bouldin and were not present at the meeting.

The following members of DPOR staff were present during some or all of the meeting:

Jay W. DeBoer, Director
Mark Courtney, Deputy Director of Licensing and Regulation Division
David Dick, Executive Director
Justin Garofalo, Board Administrator
Earlyne Perkins, Legal Analyst
Michelle Gowen, Administrative Assistant

Others who attended the meeting included:

Michael Willis (Waco, Inc.)
Robert Robb (respondent)
Douglas Burgess (respondent)
Joe Crockett (Waco, Inc.)
Brian Koepf (Home Inspector Board nominee)

Elizabeth Peay was present from the Office of the Attorney General.

Chairperson Heppner, finding a quorum of the Board present,
called the meeting to order at 9:00 am.

Call to Order

Mr. Hyatt moved that the Board approve the agenda. Mr. Cronan
seconded the motion which was unanimously approved by
members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and
Varner.

Adopt Agenda

Mr. Cronan moved that the Board approve the following Board meeting minutes:

Approval of Board Minutes

May 7, 2008, Board Meeting Minutes;
April 25, 2008, Home Inspector NOIRA Committee Minutes;
May 22, 2008, Informal Fact-Finding Conference;
June 5, 2008, Informal Fact-Finding conference;
June 19, 2008, Informal Fact-Finding Conference;
July 10, 2008, Informal Fact-Finding Conference; and
July 15, 2008, Informal Fact-Finding Conference.

Mr. Hyatt seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner.

Chairperson Heppner opened the floor for public comment. Chairperson Heppner then introduced Brian Koepf and noted that he is up for appointment to the Board to fill the open Home Inspector position.

Public Comment Period

In the matter of **File Number 2008-04347 – Douglas M. Burgess**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the Presiding Officer's summary and recommendation. Mr. Douglas M. Burgess (respondent) was present and addressed the Board.

File Number 2008-04347, Douglas M. Burgess

Mr. Cronan moved to accept the Presiding Officer's summary and recommendation and approve the application for a Home Inspector certificate for Mr. Douglas M. Burgess. Ms. Harlow seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present for the discussion or vote.

In the matter of **File Number 2008-04892 – Robert Robb** the Board members reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the Presiding Officer's summary and recommendation. Ms. Perkins noted that the name of Mr. Robb's company is incorrect in the draft provided and has since been corrected. Mr. Robert Robb (respondent) was present and addressed the Board.

File Number 2008-04892, Robert Robb

Ms. Harlow moved that the Board accept the Presiding Officer's Summary and Recommendation to deny Mr. Robb's application for an asbestos supervisor license. Mr. Sinyai seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner.

Mr. Hyatt moved that the Board grant an asbestos workers license to Mr. Robb. Mr. Cronin seconded the motion which was approved by members: Cronan, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Harlow voted in opposition of the motion. The motion passed with a majority vote. Ms. Daniels and Mr. Bouldin were not present for the discussion or vote.

In the matter of **File Number 2008-03991 – Wayne J. Dell** the Board members reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the Presiding Officer's summary and recommendation. Mr. Wayne J. Dell (respondent) was not present at the meeting.

File Number 2008-03991, Wayne J. Dell

Mr. Varner moved that the Board accept the Presiding Officer's Summary and Recommendation and approve Mr. Dell's application for a lead supervisor license. Mr. Loving seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present during the discussion or vote.

In the matter of **File Number 2007-04892 – William N. Ruiz** the Board reviewed the record which consisted of the investigative file, transcript and exhibits, and Summary and Recommendation from the Informal Fact-Finding Conference. Ms. Perkins advised the Board that the Summary should reflect that Mr. Ruiz was not present at the Informal Fact-Finding Conference. Mr. William N. Ruiz (respondent) was not present at the meeting.

File Number 2007-04892, William N. Ruiz

Mr. Hyatt moved to accept the Summary of the Informal Fact-Finding Conference as to the facts which cites the following violation of 18 VAC 15-20-450.A.2 of the Board's regulations. Mr. Varner seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner.

Ms. Perkins informed the Board that Mr. Ruiz has had no prior violations. Mr. Hyatt moved to amend the recommended sanctions and impose a \$500.00 fine as well as license revocation

for the violation of 18 VAC 15-20-450.A.2. Ms. Harlow seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present during the discussion or vote.

In the matter of **File Number 2008-03415 and File Number 2008-04765, Brodie L. Avent, Jr.**, the Board members reviewed the records which consisted of the application files, transcripts and exhibits from the IFFs and the Presiding Officer's summaries and recommendations. Mr. Brodie L. Avent, Jr.(respondent) was not present at the meeting.

File Number 2008-03415 and File Number 2008-04765, Brodie L. Avent, Jr.

Mr. Cronan moved to accept the Summaries and Recommendations of the Presiding Officer and approve Mr. Avent's application for an asbestos supervisor license and a lead worker license. Mr. Loving seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present during the discussion or vote.

In the matter of **File Number 2008-04345 and File Number 2008-04346, Erica M. Cook**, the Board members reviewed the record which consisted of the application files, transcripts and exhibits from the IFFs and the Presiding Officer's Summaries and Recommendations. Ms. Erica M. Cook (respondent) was not present at the meeting.

File Number 2008-04345 and File Number 2008-04346, Erica M. Cook

Ms. Harlow moved to accept the Summaries and Recommendations of the Presiding Officer and deny Ms. Cook's applications for an asbestos supervisor license and a lead worker license. Mr. Varner seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present at the meeting.

In the matter of **File Number 2008-04576, Patricia Moore**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the Presiding Officer's Summary and Recommendation. Ms. Patricia Moore (respondent) was not present at the meeting.

File Number 2008-04576, Patricia Moore

Mr. Varner moved to accept the Summary and Recommendation of the Presiding Officer and approve Ms. Moore's application for a lead supervisor license. Mr. Sinyai seconded the motion which

was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present during the discussion or vote.

In the matter of **File Number 2008-04678, Fernando C. Blow**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the presiding officer's summary and recommendation. Mr. Fernando C. Blow (respondent) was not present at the meeting.

File Number 2008-04678, Fernando C. Blow

Mr. Cronan moved to accept the Summary and Recommendation of the Presiding Officer and approve Mr. Blow's application for an asbestos supervisor license. Mr. Hyatt seconded the motion which was unanimously approved by members: Cronan, Harlow, Hyatt, Loving, Sinyai, and Varner. Ms. Daniels and Mr. Bouldin were not present for the discussion or vote.

Mr. Blow arrived at the meeting after the Board's decision had been rendered and thanked the Board for approving his application.

Chairperson Heppner turned the position of Chair over to Mr. Cronan and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2008-02369, Lee Richardson**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Richardson. Mr. Lee Richardson (respondent) was not present at the meeting.

File Number 2008-02369, Lee Richardson

Mr. Hyatt moved to accept the Consent Order which cites a violation of 18 VAC 15-40-190.1 of the Board regulations. For this violation, Mr. Richardson agreed to a fine in the amount of \$500.00 as well as Board costs in the amount of \$150.00, for a total monetary penalty of \$650.00. Mr. Varner seconded the motion which was approved by members: Cronan, Hyatt, Loving, Sinyai, and Varner. Ms. Harlow was in opposition of the motion. The motion passed with a majority vote.

Mr. Heppner was not present for the discussion or vote. Ms. Daniels and Mr. Bouldin were not present for the discussion or vote.

Mr. Heppner returned to the meeting and resumed the position of Chair.

Transfer of Chair

Prior to discussing this case, Mr. Hyatt recused himself from the meeting.

File Number 2008-01120, Gerald T. Simon

In the matter of **File Number 2008-01120, Gerald T. Simon**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Simon. Mr. Simon (respondent) was not present at the meeting.

Mr. Cronan moved to reject the Consent Order and make a counter offer with the following terms: revocation of license with no monetary penalty. Mr. Cronan further moved that if the Consent Order is not accepted within 14 days, the matter would be referred for an Informal Fact-Finding Conference. Mr. Loving seconded the motion which was approved by members: Cronan, Harlow, Heppner, Loving, and Sinyai. Mr. Varner voted in opposition of the motion. The motion passed with a majority vote. Mr. Hyatt was not present for the discussion or vote. Ms. Daniels and Mr. Bouldin were not present for the discussion or vote.

Mr. Hyatt returned to the meeting after the discussion and vote.

The Board members took a break from 10:00 a.m. to 10:05 a.m.

Break

Mr. Dick updated the Board on the Asbestos Fast Track Amendment. Public Comment Period ended June 24, 2008. There were no objections to the use of the APA Fast Track provisions, and the regulations became effective August 1, 2008.

Other Business

Mr. Dick provided the Board members with a draft of the Home Inspectors NOIRA summary of comments and Board response as well as the proposed regulation amendments. Mr. Hyatt moved to adopt the summary of comments and the Certified Home Inspector regulation proposed amendment. Mr. Cronan seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner.

After discussion, Ms. Harlow moved to repeal the Board's existing public participation guidelines and adopt the model public participation guidelines via exempt action. Mr. Hyatt seconded the motion which was unanimously approved by members: Cronan, Harlow, Heppner, Hyatt, Loving, Sinyai, and Varner.

Mr. Garofalo reported to the Board that staff is in the process of

drafting a pamphlet for the educational programs which will be provided as one pamphlet written both in English and Spanish.

The following meeting dates have been scheduled.

- November 5, 2008
- February 4, 2009
- May 13, 2009
- August 12, 2009
- November 4, 2009

**Future Meeting
Dates**

Chairperson Heppner asked the Board members to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest
Forms and Travel
Vouchers**

Chairperson Heppner, finding no further business to conduct, adjourned the meeting at 10:36 A.M.

Adjournment

Frederick Heppner, Chairperson

Jay W. DeBoer, Secretary